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*** ADMITTED IN NY AND FLA
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December 22, 2020

By: ECF
The Honorable Katherine Polk Failla
United States District Judge
Southern District of New York
United States Courthouse
40 Foley Square
New York, New York

Re: Building Service 32BJ Health Fund, et al.
v.
Fifth Avenue Building Company, LLC, et al.
S.D.N.Y. Docket No. 20-CV-6302 (KPF)

Dear Judge Failla,

Please accept the following motion letter asking to adjourn the upcoming initial conference scheduled for January 6, 2021 at 2:30 pm on the ground that the parties have mutually agreed to a proposed case management plan. (A copy of the proposed plan is annexed as Exhibit "A".)

The underlying action was commenced by the plaintiffs ("Funds"), multi-employer fringe benefits funds, pursuant to ERISA and the Taft-Hartley Act, seeking past due contributions, payments for audit finding results, preliminary injunctive relief to compel payments, and for statutory and contractual penalties for the non-payments or late payments of contributions owed to the Funds. The action named nine separate defendants ("Defendants"), each party to a collective bargaining agreement with Service Employees International Union, Local 32BJ ("Union"). The Defendants are either commercial or residential building in Manhattan, which buildings employ members of the Union. All of the buildings are managed by Cohen Brothers Realty, which company is named as a party in interest.

In the past months, after suit was initiated, almost all the past due contributions have been paid. As such, the issue concerning injunctive relief is presently moot. The issues remaining

include addressing the disputes raised in connection with an audit findings covering the period of January 2015 through September 2018, and the assessment of interest and/or other ERISA relief.

Settlement discussions have been ongoing. The parties will continue in their settlement discussions.

Based upon the above the parties respectfully ask the Court to approve the proposed Case Management Plane and adjourn the initial conference sine die.

Respectfully submitted,
s/ Ira A. Sturm

cc: Jerold Goldberg, Esq. (By: ECF)

Application GRANTED. The pretrial conference scheduled for January 6, 2021, is hereby ADJOURNED to **May 19, 2021, at 10:00 a.m.** The Court will enter the parties' proposed Case Management Plan and Scheduling Order under separate cover.

Dated: December 22, 2020
New York, New York

SO ORDERED.



HON. KATHERINE POLK FAILLA
UNITED STATES DISTRICT JUDGE